

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

LAQUISHA B. DAVIS,

Petitioner,

v.

Civil Action No: 1:14-06250

SANDRA BUTLER,

Warden

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court are petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, (Doc. No. 1), and the United States' motion to dismiss petitioner's petition, or, in the alternative, a motion for transfer the petition to the United States Court of Appeals for the Fourth Circuit. (Doc. No. 9). By Standing Order, this matter was referred to United States Magistrate Judge Cheryl A. Eifert for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. No. 3). Magistrate Judge Eifert submitted to the court her Proposed Findings and Recommendation on January 12, 2015. In the PF&R, Magistrate Judge Eifert recommended that the district court grant the United States' motion to dismiss, deny petitioner's petition for a writ of habeas corpus, and remove this matter from the court's docket. (Doc. No. 11).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to the PF&R. The failure to file such objections constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Petitioner failed to file any objections to the Magistrate Judge's PF&R within the seventeen-day period. Having reviewed the PF&R filed by Magistrate Judge Eifert, the court adopts the findings and recommendations contained therein.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly the court **DENIES** a certificate of appealability.

The court hereby **ADOPTS** the factual and legal analysis contained within the PF&R, **GRANTS** the United States' motion to dismiss petitioner's petition and **DENIES** as moot the United States' motion to transfer petitioner's petition to the United States Court of Appeals for the Fourth Circuit. (Doc. No. 9). The court **DIRECTS** the Clerk to remove this case from the court's docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to petitioner, pro se.

It is SO ORDERED this 4th day of February, 2015.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge